



Remarks

By this Amendment, claim 61 is amended. Accordingly, claims 24-30, 60-68 and 70-74 are pending in this application, claims 24, 30, 61 and 68 being the independent claims.

In the Final Office Action dated July 2, 2003, claims 24-28, 60, 63, 68, 70, 71, 73 and 74 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Pinchasik *et al.*, U.S. Patent No. 5,449,373. Claims 29 and 62 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Pinchasik *et al.* Claim 61 is objected to as being dependent upon a rejected base claim, but is allowable if rewritten in independent form, to include all of the limitations of the base claim and any intervening claims. Claims 30 and 64-67 are allowable.

Applicants also note that the status of claim 72 is unclear, since the Final Office Action did not specifically address it, and therefore request clarification.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Allowed Claims 30 and 64-67

Applicants thank the Examiner for the allowance of claims 30 and 64-67.

Allowable Claim 61

Applicants thank the Examiner for indicating the allowability of claim 61, subject to being rewritten in independent form. Claim 61 has been rewritten in independent form, as

suggested by the Examiner. Accordingly, this claim is believed to be in condition for allowance.

The rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a)

Claims 24-28, 60, 63, 68, 70, 71, 73 and 74 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Pinchasik *et al.* Claims 29 and 62 stand rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Pinchasik *et al.* These rejections are respectfully traversed. Nothing in Pinchasik *et al.* teaches or suggests that different portions of its stent may have different expansion characteristics.

The Office Action, at page 2, states that Pinchasik *et al.* discloses a stent that may be made of materials, such as gold, tantalum, stainless steel, etc. However, even assuming that the structure of Pinchasik *et al.* may be made self-expanding, as well as balloon expandable (regardless of the materials used), there is still no teaching or suggestion in Pinchasik of making its connector elements 124 with different expansion characteristics than the “loops” 102.

Applicants also note that, although some materials may be “self expanding” in some circumstances, and “plastically deformable” in others, claim 24 is directed to a prosthesis that has certain properties, not merely to a material. In the medical devices field, the term “self expanding” is well understood to mean more than merely very small expansion. Applicants also submit an article by Duerig and Wholey, entitled “A comparison of balloon-and self-expanding stents,” *Min Invas Ther & Allied Technol* 2002: 11(4) 173-178, and particularly invite the Examiner’s attention to the first paragraph of the article, where the differences between the two types of expansions are discussed. Thus, Applicants respectfully submit that,

contrary to the assertion in the Office Action, the stent of Pinchasik *et al.* (or any of its constituent portions) will not be considered by one of ordinary skill in the art to be “self expanding”.

The Office Action, at pages 2-3, also appears to treat the structure of Pinchasik *et al.* as having “different expansion characteristics” due to the shape of the structure - in other words, due to the fact that it has what the Office Action refers to as “self-expandable loops” (designated 102 in FIG. 3A), and the serpentine connector elements (designated 124 in FIG. 3A). However, the different shapes of these portions of the Pinchasik *et al.* stent do not provide different malleability. Malleability is a property of the material itself, not a property of the shape of the material. The malleability of all portions of the Pinchasik *et al.* stent is the same because Pinchasik discloses that its stent is made all from the same material. This is to be contrasted with, for example, the language of independent claim 24, which recites self-expandable loops and plastically deformable connector elements. The stent of Pinchasik *et al.* does not function simultaneously as both a self-expanding structure and a plastically deformable one. Reconsideration is therefore respectfully requested.

Independent claim 68 recites a plurality of self-expandable ring frames and a plurality of connector elements that have regions formed of materials having different malleability. The structure of Pinchasik *et al.* is formed of a single material, and does not have regions formed of materials having different malleability. Reconsideration is therefore respectfully requested.

Accordingly, for the reasons discussed above, independent claims 24 and 68 are allowable over Pinchasik *et al.* Applicants therefore respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e).

Dependent claims 25-29, 60, 62-63, 70, 71, 73 and 74 are allowable at least because their base claims are allowable, as well as due to the features recited therein. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) of these claims.

Conclusion

In view of the above discussion, Applicants believe the currently pending claims are in condition for allowance.

Should the Examiner have any questions with regard to this Response, or determine that any further action is necessary to place this Application in better form for allowance, the Examiner is encouraged to telephone Applicants' representative at (202) 371-2600.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



George S. Bardmesser
Attorney for Applicants
Registration No. 44,020

Date: 9/2/03

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

156776_1